

ALABAMA DEPARTMENT OF REHABILITATION SERVICES BUSINESS ENTERPRISE
PROGRAM
ADMINISTRATIVE CODE

CHAPTER 795-7-4
ASSIGNMENT OF VENDORS

TABLE OF CONTENTS

795-7-4-.01	Selection Process
795-7-4-.02	Facility Announcement
795-7-4-.03	Standards Of Performance

795-7-4-.01 Selection Process.

(1) Individuals will be selected to operate a facility from those who are licensed on or before the closing date of applications as determined by the facility announcement.

(2) Applications will not be considered for individuals who at the time of the closing date on the Facility Announcement are:

(a) not in compliance with any rule or regulation of BEP;

(b) on probationary status having actively operated his/her permanent facility for a period of less than 180 days;

(c) delinquent in payments to the SLA, set-aside and/or escrow fund;

(d) delinquent in filing a timely and complete application with the SLA;

(e) delinquent in filing timely and complete BEP-1E financial reports with the SLA;

(f) vendors not current with payments for liability insurance coverage; or

(g) who average less than 75 percent on his/her performance appraisal or averages less than 75 percent on his/her total average for the two most recent performance appraisals used in the selection process.

(3) Selection procedures:

(a) The SLA will notify all vendors and licensees of all available facilities through a facility announcement in an accessible format (i.e., Braille, large print, diskette).

(b) The selection committee will consist of one representative from the SLA and two members of the Elected Committee of Blind Vendors. The SLA will select the two-elected committee members. Should a selected committee member not be available, their alternate may serve on a selection committee. Meetings for selection purposes shall be timely and scheduled in advance when possible. If possible, no elected or alternate committee members shall serve on a selection committee that involves an available facility or applicant from their respective BEP region. A vendor serving on a selection committee shall receive travel and per diem consistent with department regulations and a \$50 per day income replacement fee paid from the set-aside fund.

(c) Elected and/or alternate committee members, serving as selection committee members, shall review their relationship to the selection being considered so as to prohibit a conflict of interest.

(d) For selection purposes: BEP facilities classified as "Vending Machine Facility", "Vending Machine Route" or as "Highway Vending" will require the selection committee to evaluate each qualifying applicant based on the following criteria:

1. Licensed on or before the closing date to receive applications
2. By the closing date of applications as determined by the facility announcement.
3. Successful completion of training from the E. H. Gentry Facility, and
4. The average of the applicants two most recent vendor performance appraisal scores, and
5. Seniority point(s), and
6. Displacement points.

(e) For BEP facilities classified as a Limited Food Preparation Facility or as a Snack Bar Facility the selection committee shall evaluate each applicant based on criteria (1) through (6) in section (d) above and in addition the applicant shall have successfully completed training in Safe Food Preparation as demonstrated by submitting a currently approved ServSafe Food Certificate.

(f) For BEP facilities classified as cafeterias the selection committee shall evaluate each applicant based on criteria (1) through (6) in Section (d) above and in addition, the applicant shall have successfully completed training in Safe

Food Preparation as demonstrated by submitting a currently approved ServSafe Food Certificate.

(g) For BEP facilities classified as "Other", the selection committee shall evaluate each applicant based on criteria (1) through (6) in Section (d) above and in addition, the applicant shall meet the additional requirements posted in the Facility Announcement, if any.

(h) Performance appraisals completed prior to the advertised facility date shall be assigned a point value for performance as follows: An applicant may receive a maximum of 100 points based on scores received on his/her performance appraisals. The BEP representative in whose region an applicant is located will submit to the SLA for selection purposes the applicant's two most recent performance appraisals.

(i) The selection committee shall review the two most recent performance appraisal scores. If a vendor has not participated as a permanent vendor for a sufficient period to receive two performance appraisals, then his/her most recent appraisal shall be used to derive one score for selection purposes.

(j) For those vendors who have participated in BEP for sufficient time to receive two performance appraisals, the selection committee shall add the two most recent scores and divide by two to derive the average score.

(k) A point value shall be assigned for seniority as follows:

1. One seniority point shall be awarded for each full year the applicant has been a permanently assigned vendor operating a facility. Seniority points shall accrue and be determined from the date the applicant began the operation of a facility as a permanent vendor.

2. A vendor who transfers from one facility to another does not lose seniority.

3. A vendor who leaves a facility due to documented medical reasons will have their seniority frozen until the first day of business at a permanent facility after they receive a doctor's medical release. A vendor's performance appraisal form shall be completed at the time of such medical leave, retained on file, and utilized should the vendor subsequently apply for an available facility.

4. A vendor who is involuntarily removed from his/her facility as a result of demand by the grantor shall have the merits of the action reviewed in accordance with 795-7-10-05(2) and (3). The review shall be conducted jointly by the SLA and the Elected Committee consisting

of BEP director, assistant director, Elected Committee chairperson, and two members of the BEP Rules Committee. Should the review conclude that the vendor's action would not be programmatic grounds for removal, his/her seniority points shall be recorded upon date of removal and utilized for selection purposes. Accumulation of seniority shall cease until the vendor's first business day in a subsequent permanent facility at which time seniority will be retroactively reinstated.

(l) Displacement points are awarded to a vendor who loses his/her facility through no fault of his/her own. Displaced vendors shall be awarded three displacement points for selection purposes; points must be used within a two-year period after displacement. A vendor may be placed in one facility based on displacement points. A vendor shall not be awarded displacement points if the loss of the facility is a direct result of his or her conduct. The displaced vendor will continue to accrue seniority for a period not to exceed two years.

(m) In the event that no vendor applies or is qualified for an advertised facility, the qualified licensee applicant with the earliest training completion date shall be offered the location. If this individual declines, each licensee applicant shall be notified according to his/her earliest training completion date until someone accepts the facility. In the event no one accepts the advertised facility, it may be considered for temporary assignment and reviewed.

(n) All personal information made available to the committee in the course of the selection process shall be confidential. Under no circumstances shall selection committee members release such information to any individual, agency, or organization. Selection committee members or BEP state office representatives shall not discuss the prospects of an applicant being selected prior to the selection committee meeting.

(o) The BEP director and ADRS commissioner shall review the work of the selection committee prior to notifying applicants of the decision.

(p) Applicants shall be notified, in writing, within five (5) business days of the selection committee's decision. The individual selected must respond, in writing, to the BEP director indicating acceptance or rejection of the facility within five (5) business days of the date of receipt of his/her selection notification letter. Failure to respond within the prescribed time frame will be considered a rejection. Before an applicant is offered a new facility, said applicant must demonstrate the ability to meet the financial obligations of their current facility to the satisfaction of their

representative. The representative will send a letter of verification to the selection committee stating the vendor is able to meet the financial obligation of their current facility.

(q) Applicants accepting a facility shall complete a final inventory and forfeit any agreement to operate as well as any right of possession, control, privilege, priority, or advantage over his/her current facility.

(r) A vendor selected for a facility shall return all purchased stocks, supplies, or cash equivalent, and equipment to the SLA within 30 days of receiving his/her exit inventory. In some cases, a vendor may be required to continue operating his/her current facility. Such operations shall be considered a temporary facility.

(s) The SLA shall execute an operating agreement with the vendor upon completion of the beginning inventory for the new facility.

(t) The expense of moving personal and household items due to the acceptance of a facility by a vendor or licensee shall be his/her sole responsibility and expense.

Author: Alabama Board of Rehabilitation Services, Alabama Elected Committee of Blind Vendors

Statutory Authority: Code of Ala. 1975, §§21-1-40, 21-9-9; 20 U.S.C. 107 et. seq.

History: New Rule: Filed January 19, 2000; effective February 23, 2000. **Amended:** Filed August 8, 2001; effective September 12, 2001. **Amended:** Filed March 9, 2004; effective April 13, 2004.

Amended: Filed March 6, 2017; effective April 20, 2017.

795-7-4-.02 Facility Announcement.

(1) Facility announcements shall be sent to all licensees and vendors within the state and shall contain the following pertinent information:

(a) closing date by which time all applications shall be received by the SLA

(b) training requirements

(c) approximate and/or estimated annual gross sales

(d) classification of facility

(e) days and hours of operation

(f) available storage

(g) location (city, suburban, rural)

(h) general market information

(i) any additional requirements for facilities classified as "Other"

(j) overhead expenditures required of the vendor

(2) The vendor's signature on the facility application shall authorize the SLA to release to members of the selection committee information related to the applicant's performance.

(3) The facility announcement shall remain open for a period of at least 14 calendar days except in unusual situations as determined by the BEP director.

Author: Alabama Board of Rehabilitation Services, Alabama Elected Committee of Blind Vendors

Statutory Authority: Code of Ala. 1975, §§21-1-40, 21-9-9; 20 U.S.C. 107 et. seq.

History: New Rule: Filed January 19, 2000; effective February 23, 2000.

795-7-4-.03 Standards Of Performance.

(1) A BEP representative will be assigned to coordinate and monitor activities with each vendor and BEP facility.

(2) Each BEP representative, in consultation with the vendor and the SLA, will develop performance goals for each facility associated with BEP. Specific standards shall include but are not limited to: sales volume, gross profit percentage, net profit percentage, hours of operation, accuracy of reports, operating expenditures, timeliness and submission of reports, set-aside payments, escrow payments, maintenance of inventory levels, preventive maintenance, grantor satisfaction, marketing, and customer satisfaction.

(3) The performance goal for sales volume will be based on past performance and/or current assessments.

(4) The standard for gross profit percentage will be no less than 40 percent for BEP facilities. A gross profit percentage of less than 40 percent shall be approved by the SLA. The determination of gross profit percent shall be based on facility circumstances, services and product markup.

(5) The performance goal for hours of operation will be based on the requirements of the grantor and vendor agreement and the facility.

(6) The performance goal for accuracy of all reports submitted by vendors to the SLA shall be considered in assessing performance. All reports shall reflect actual expenditures with supporting invoices as backup confirmation for audit and assessment purposes. The SLA must approve all operating expenditures listed as "other expenses" on the "Facility Monthly Sales & Escrow Report" (BEP-1E) before being considered an operating expense.

(7) The performance goal for timely submission of reports, payment of set-aside funds and payment of escrow funds shall be due on the 20th day of each month and considered delinquent after the last day of the month.

(8) The performance goal for the maintenance of inventory and/or cash equivalent shall be equal to the initial investment of the SLA.

(9) The BEP representative, in consultation with the vendor and the SLA, shall develop other performance goals specific to each BEP facility.

(10) Each vendor will be notified in writing of the minimum financial performance goals required for his/her BEP facility. Each vendor may request on a quarterly basis that his/her standards be reevaluated. All changes to a vendor's standards will be communicated in writing.

(11) The BEP representative will complete vendor performance appraisals annually covering the period January through December. Utilizing the performance appraisal form, said appraisals shall determine the extent to which each vendor meets the standards of performance for that period. At the time of each appraisal, the vendor shall furnish to the BEP representative a list of current inventory. An annual equipment audit will be conducted by the BEP representative and the ADRS property officer. When a vendor fails to meet his/her performance goals, the BEP representative will advise the vendor of the deficiencies and recommend corrective actions for improvement. Recommended corrective actions shall be in writing.

(12) Vendors shall actively participate in the operation and management of their facility. A full-service arrangement with a beverage or products supplier, where the vendor does not actively and directly operate his/her business shall be justified in writing and approved by the SLA. Full-service arrangements shall be reviewed by the vendor, BEP representative and BEP director. Such arrangements shall be described in the vendor's operating agreement with the SLA and be in the best interest of the vendor and BEP.

Author: Alabama Board of Rehabilitation Services, Alabama Elected Committee of Blind Vendors

Statutory Authority: Code of Ala. 1975, §§21-1-40, 21-9-9; 20 U.S.C. 107 et. seq.

History: **New Rule:** Filed January 19, 2000; effective February 23, 2000. **Amended:** Filed August 8, 2001; effective September 12, 2001.